UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Lara Ellis, Plaintiff, v. Conn Appliances, Defendant.	Civil Action No.: 4:13-cv-00941 **COMPLAINT** **JURY TRIAL DEMANDED**

For this Complaint, the Plaintiff, Lara Ellis, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq*. (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transact business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

3. The Plaintiff, Lara Ellis ("Plaintiff"), is an adult individual residing in Fort Worth, Texas.

4. Defendant Conn Appliances ("Conn"), is a Texas business entity with an address of 1300 East Belt Line Road, Richardson, Texas 75081-3709.

FACTS

5. Beginning in or around March 2013, Defendant started contacting Plaintiff by placing calls daily to Plaintiff's cellular telephone.

6. Defendant placed calls to Plaintiff on her cellular telephone using an automated telephone dialing system ("ATDS") and/or by using an artificial or prerecorded voice.

7. When answering each of Defendant's ATDS calls, Plaintiff heard a prerecorded message instructing her to hold for the next available representative.

8. During a conversation with a live representative in or around July 2013, Plaintiff requested Defendant cease all ATDS calls to her cellular telephone.

9. Despite such request, Defendant continued to place as many as six (6) calls a day to Plaintiff's cellular telephone, much to her frustration and annoyance.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT – 47 U.S.C. § 227, *et seq.*

10. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein and within the last four years, Defendant called Plaintiff on her cellular telephone using an automatic telephone dialing system ("ATDS" or "Predictive Dialer") and/or by using a prerecorded or artificial voice.

12. In the event Defendant at one time had consent to contact Plaintiff on her cellular telephone, Plaintiff revoked her consent by her demand to cease all calls thereto.

13. Defendant continued to place automated calls to Plaintiff's cellular telephone knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

14. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

15. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, *et. seq*.

17. As a result of each of Defendant's negligent violations of the TCPA, Plaintiff is entitled to an award of $500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each of Defendant's knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to $1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

1. Statutory damages of $500.00 for each violation pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful or intentional pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: November 25, 2013

Respectfully submitted,

By */s/ Jody B. Burton*

Jody B. Burton, Esq.
CT Bar # 422773
LEMBERG LAW, L.L.C.
14785 Preston Road, Suite 550
Dallas, Texas 75154

Counsel To:
LEMBERG LAW, L.L.C.
1100 Summer Street, 3rd Floor
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
E-mail: jburton@lemberglaw.com
Attorneys for Plaintiff